

**AN ORDINANCE OF THE BOROUGH OF WESTVILLE,  
COUNTY OF GLOUCESTER, STATE OF NEW JERSEY.**

**AN ORDINANCE ESTABLISHING A FAIR AND OPEN PROCESS  
FOR THE AWARD OF PROFESSIONAL SERVICE AGREEMENTS  
AND OTHER AGREEMENTS WITH BUSINESS ENTITIES**

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**WHEREAS**, in our representative form of government, it is essential that individuals who are elected to public office have the trust, respect and confidence of the citizenry; and

**WHEREAS**, all individuals, businesses, associations, and other persons have a right to participate fully in the political process of New Jersey, including making and soliciting contributions to candidates, political parties and holders of public office; and

**WHEREAS**, when a person or business interest makes or solicits major contributions to obtain a contract awarded by a government agency or independent authority, this constitutes a violation of the public's trust in government and raises legitimate public concerns about whether the contract has been awarded on the basis of merit; and

**WHEREAS**, the growing infusion of funds donated by business entities into the political process at all levels of government has generated widespread cynicism among the public that special interest groups are "buying" favors from elected officeholders; and

**WHEREAS**, professional entities and other business entities are exempt from established New Jersey Public bidding laws, specifically said exception being set forth under N.J.S.A. 40A:11-5; and

**WHEREAS**, the Borough of Westville ("Borough") has recognized that there is a need for a fair and open process for the awarding of professional service contracts and other contracts as contained in N.J.S.A. 40A:11-5, where other contracts and agreements are subject to public bidding, in order to address the concerns of taxpayers regarding political contributions and to engender trust in the process of local government and to insure that quality public services are received; and

**WHEREAS**, the State of New Jersey has enacted N.J.S.A. 19:44A-20.5 which bars any municipality, agency, board, authority or instrumentality thereof from entering into a contract in excess of \$17,500.00 with a business entity that has made a political contribution reportable pursuant to N.J.S.A. 19:44A-1 et. seq. to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded unless said contract is awarded pursuant to a fair and open process; and

**WHEREAS**, this Ordinance shall apply to those services, contracts, etc. described above, that expire as of December 31 of that calendar year; and

**WHEREAS**, this Ordinance shall apply to all Municipal appointing authorities, to include the Office of the Mayor, municipal governing body, planning board, and zoning board.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Westville, County of Gloucester and State of New Jersey, that the Borough of Westville enact an Ordinance to be known as an Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements and Other Agreements with Business Entities as consistent with the provisions of N.J.S.A. 19:44A-20.5, et seq., and said Ordinance shall read as follows:



**An Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements and Other Agreements with Business Entities**

**I. Prohibition Awarding Certain Public Contracts**

Any other provision of the law or ordinance to the contrary notwithstanding, the Borough or any board, authority, agency or instrumentality thereof (hereinafter referred to as "Municipal Appointing Authority"), shall not enter into a contract having an anticipated value in excess of \$17,500.00 as determined in advance and certified in writing by the Municipal Appointing Authority, or its designee, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one year period, that business entity has made political contributions that are reportable by the recipient under *N.J.S.A. 19:44A-1 et seq.*, to any municipal committee of a political party in the Borough if a member of that political party is serving in an elective public office of the Borough when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Borough when the contract is awarded; and

A business entity that has entered into a contract having an anticipated value in excess of \$17,500 with the Municipal Appointing Authority, except a contract that is awarded pursuant to a fair and open process, shall not make such a contribution, reportable by the recipient under *N.J.S.A. 19:44A-1 et seq.*, during the term of the contract, to any municipal committee of a political party in the Borough if a member of that political party is serving in an elective public office of the Borough when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Borough when the contract is awarded, during the term of the contract. In the alternative to proceeding with the fair and open process described herein, the Municipal Appointing Authority thereof may award a contract to a business entity for an amount in excess of \$17,500, pursuant to procedures prescribed by the New Jersey Local Public Contracts Law and without competitive bidding or competitive proposals. However, such award may be made only if the recipient of the contract provides a written certification that it has not made a political contribution which would bar the award of the contract to it.

**II. Fair and Open Process**

A. Any professional service entity or other business entity providing services to the Borough shall be subject to a fair and open process for selection. That fair and open process shall be set forth in subsection B below which shall establish a criteria for the fair and open process. Included in that criteria and made a part hereof, shall be some or all of the following: accessibility; understanding of the assignment; methodology/plan for accomplishing the assignment; general experience; experience specific to the assignment; sufficiency of resources to perform the task.

B. The fair and open process established by the Borough shall require the following:

(1) The solicitation of proposals or qualifications for any professional position, service contract, or other contract not subject to bidding pursuant to *N.J.S.A. 40A:11-5*, that shall expire as of December 31 of that calendar year shall be published and advertised by the Municipal Appointing Authority or its designee either in the official newspaper of the Borough for publication of notices, or on the Borough's website in sufficient time to give notice in advance of the contract solicitation. The published notice shall set forth the name of the position or contract which is to become open, set forth the criteria to be considered and materials required to be submitted by the applicant/proposer and a date, time and place when the proposals or qualifications shall be publicly opened.

(2) Should the applicant/proposer be a professional acquiring licensure in the State of New Jersey, said applicant/proposer shall be licensed for a period not less than five (5) years.

(3) If the applicant/proposer is not a professional and/or the contract to be awarded is not a professional services contract, the applicant/proposer shall provide a "Certificate of Good Standing" or other similar document evidencing that it is authorized to do business in the State of New Jersey.

(4) The applicant/proposer shall submit a resume which shall set forth information including, but not limited to the following (as applicable to a business entity or individual professional):

- (a) Full name and business address;
- (b) A listing of all post high school education of the applicant/proposer;
- (c) Dates of licensure in the State of New Jersey and any other State;
- (d) A listing of any professional affiliations or memberships in any professional societies or organizations, with an indication as to any offices held therein;
- (e) The number of licensed professionals employed by/affiliated with the business entity or the business entity which employs the applicant/proposer;
- (f) A listing of all special accreditations held by the individual licensed professional or business entity;
- (g) A listing of all previous public entities served by the business entity or licensed professional, indicating the dates of services and position held; and

C. The Municipal Appointing Authority shall thereafter publicly select the professional or business entity for the position so advertised which shall thereafter be confirmed or approved as required by law or Ordinance.

D. The awarded contract shall be publicized in the official newspaper of the Borough for publication of notices in accordance with *N.J.S.A. 40A:11-5*.

E. Consistent with the provisions of *N.J.S.A. 19:44A-20.7*, the Borough's determination of what constitutes a fair and open process shall be final. Fair and open may necessarily be implemented differently for different categories of procurement depending on the subject matter of the procurement, and the nature and nuances of the industry providing the services or product, but in every instance, the principles of fair and open shall be maintained.

F. If any sentence, paragraph or section of this Ordinance or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action, any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair, or void the remainder of any of the provisions of this Ordinance.

G. The purpose of this Ordinance is to comply with the provisions of *N.J.S.A. 19:44A-20.5*, *et seq.* The definitions as set forth in that statute are referred to and incorporated into this Ordinance.

**BE IT FURTHER ORDAINED**, that this Ordinance will take effect after adoption and publication according to law.

BOROUGH OF WESTVILLE

BY: \_\_\_\_\_  
WILLIAM C. PACKER, III, MAYOR

ATTEST:

\_\_\_\_\_  
CHRISTINE A. HELDER, Municipal Clerk



# AFFIDAVIT OF PUBLICATION

State of New Jersey

SS:

Gloucester County

## PUBLIC NOTICE

1. AN ORDINANCE ESTABLISHING A FAIR AND OPEN PROCESS FOR THE AWARD OF PROFESSIONAL SERVICE AGREEMENTS AND OTHER AGREEMENTS WITH BUSINESS ENTITIES.

2. AN ORDINANCE TO AMEND SECTION 54-2 OF CHAPTER 54 - FEES, AS IT PERTAINS TO BIRTH CERTIFICATES, DEATH CERTIFICATES AND MARRIAGE CERTIFICATES OF THE CODE OF THE BOROUGH OF WESTVILLE.

NOTICE is hereby given that the foregoing ordinances were introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Westville, County of Gloucester, and State of New Jersey held on October 25, 2006 at Borough Hall and were read for the first time.

These ordinances will be further considered for final passage after a public hearing hereon, at a meeting of the Mayor and Council to be held at the Borough Hall, 114 Crown Point Road on November 8, 2006 at 7:30 pm. During the week prior and up to and including the date of such meeting, copies of the ordinances are available to the public at no charge in the Borough Offices, 1035 Broadway.

CHRISTINE A. HELDER  
MUNICIPAL CLERK

(2449326) 10/30-11

Cost: \$29.40

Frank Gargano, being duly sworn, on his oath, says he is agent of the South Jersey Newspapers Co., publishers of "Gloucester County Times", a newspaper printed and published at Woodbury, State and County aforesaid, and that a notice which the annexed is a true copy, was published in said newspaper for a period of 1 time(s), once each week successively commencing on the 30 day of October, 2006 and continues.

*F. Gargano*

Business Manager

Sworn to and subscribed before

me this 30

day of October 2006

*Cynthia J. Frazier*

CYNTHIA J. FRAZIER  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires May 12, 2008

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NOTICE is hereby given that the foregoing ordinances were finally adopted at a meeting of the Mayor and Council of the Borough of Westville, County of Gloucester, and State of New Jersey held on November 8, 2006.

Cost: \$17.50

(2451546) 11/15-11

Frank Gargano, being duly sworn, on his oath, says he is agent of the South Jersey Newspapers Co., publishers of "Gloucester County Times", a newspaper printed and published at Woodbury, State and County aforesaid, and that a notice which the annexed is a true copy, was published in said newspaper for a period of 1 time(s), once each week successively commencing on the 15 day of November, 2006 and continues.

*F. Gargano*

Business Manager

Sworn to and subscribed before

me this 15

day of November 2006

*Cynthia J. Frazier*

CYNTHIA J. FRAZIER  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires May 12, 2011

FILED

AUG 31 2007

NINA MITCHELL WELLS  
SECRETARY OF STATE